



RSA-3842-2015

-1-

108

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3842-2015

Date of decision:-08.08.2024

Jagir Singh

...Appellant

Versus

Punjab State Power Corporation Ltd. and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL**Present** : Mr.Fateh Singh Dilla, Advocate
for the appellant.Mr.Pavit Singh Mattewal, Advocate and
Mr.Saurav Dhir, Advocate
for the respondents.

SUVIR SEHGAL, J.(ORAL)

1. Plaintiff – appellant is in second appeal before this Court challenging the concurrent finding recorded by the Courts below.

2. Pleaded case of the plaintiff – appellant is that he joined the defendants as a Lineman on 10.07.1969 and was promoted as JE-II in the month of June, 1998. During his service tenure some of his juniors



RSA-3842-2015

-2-

108

were promoted as JE-I, but the plaintiff – appellant was ignored. Plaintiff retired from service on 30.04.2004 on attaining the age of superannuation. Claiming that the defendants have granted four step-up increments to diploma holders, when they reached the grade of Rs.9,100/-, but the same benefit was not extended to the plaintiff and that he had not been given the 23 years promotional scale, despite the fact that he had crossed the age of 58, he filed a suit for declaration and mandatory injunction.

3. Upon being served, defendants No.1 and 2 filed a joint written statement contesting the suit on the ground that it is hopelessly barred by time. The service particulars of the plaintiff were admitted, however, it was denied that any junior to the plaintiff was ever promoted as JE-I. Denying the claim of the plaintiff, the defendants sought dismissal of the suit. Issues were framed on the basis of the pleadings of the parties, who led evidence in support of their case. After hearing them, Trial Court by judgment and decree dated 19.10.2013 dismissed the suit. Plaintiff remained unsuccessful in the first appeal, which was rejected by judgment dated 21.08.2014 passed by learned Additional District Judge, Amritsar, resulting in the filing of the present appeal.

4. Counsel for the appellant has argued that failure to grant the promotional scale to the appellant is a recurring cause of action and both the courts below have erred in dismissing the suit as being barred by limitation.

5. On the other hand, Mr. Mattewal, learned counsel for the respondents while supporting the judgments and decrees under



RSA-3842-2015

-3-

108

challenge, has placed reliance upon the judgment of the Supreme Court in **State of Punjab and another Versus Balkaran Singh (2006) 12 SCC 709** to contend that the suit for declaration was time barred as it was not filed within a period of three years from the date the cause of action accrued.

6. I have heard the counsel for the parties and considered their respective submissions as well as examined the Trial Court record.

7. In Balkaran's case (supra), Supreme Court has held as under:-

“15. We shall first deal with the first two suits relating to the declaration that the plaintiffs therein are entitled to be placed in the revised scale of pay of Rs.1200-1850. The suits filed are for declaration that the order or endorsement dated 13.03.1980 was illegal and void. The suits were filed more than 12 years after the order fixing the revised scale of pay at Rs.940-1850. A suit for declaration is governed by Article 58 of the Limitation Act and the period is three years and the terminus au quo is “when the right to sue first accrues”. (emphasis supplied). Clearly, the right to seek the relief of declaration that they are entitled to the revised scale of pay of Rs.1200-1850, accrued to the plaintiffs on 13.03.1980, when the endorsement in that behalf was made by the Director of Agricultural Services and the plaintiffs were denied revised pay at Rs.1200-1850 and were paid only at Rs.940-1850. It was not the mere making of an order, but an action that had immediate impact on the right of the plaintiffs to recover a higher



RSA-3842-2015

-4-

108

salary as per their claim. The cause of action thus clearly arose for the first time. Thus the suit for declaration was clearly barred by limitation going by Article 58 of the Limitation Act. The fact that some other officer had been given a decree for the enhanced revised scale, does not furnish the plaintiffs in the first two suits with a fresh cause of action. It is well settled that the time does not stop to run once it has started to run. Therefore, the reliance placed on the decree in Civil Suit No.461 of 1991 had absolutely no relevance on this question. Strictly speaking, Civil Suit No.461 of 1991 also ought not to have been decreed since that suit was clearly barred by limitation, since the order sought to be challenged in that suit of 1991 was also the order dated 13.03.1980. But in view of the decree passed therein, it is not for us now to go into the correctness or otherwise of the decision rendered therein. Suffice it to say that the said decision cannot give the plaintiffs a fresh cause of action. The time started to run when the right to sue first accrued to the plaintiff and that first accrual was clearly on 13.03.1980 and on expiry of 3 years therefrom, the suit for declaration became barred.”

8. The Supreme Court was dealing with a case of a revision of pay scale and was of the view that a right accrued to the plaintiff on the day the cause of action had arisen. In **M.R. Gupta Versus Union of India and others (1995) 5 SCC 628** Supreme Court observed that the claim to be paid the correct salary computed on the basis of proper pay



RSA-3842-2015

-5-

108

fixation, is a right which subsists during the entire service tenure and can be exercised at the time of each payment of salary so long as the employee is in service.

9. In the present case, as per the record, the plaintiff – appellant was born on 04.04.1946 and he completed 50 years of age on 04.04.1996. Therefore, the cause of action arose to him in the year 1996. However, he has filed the suit in 2010, which is clearly barred by time. Plaintiff stood retired from service on 30.04.2004 and in case he had any service dispute and was aggrieved that he has not been granted the benefit of a higher grade during his service tenure, the suit should have been filed within a period of three years from the date of attaining the age of superannuation. However, the suit has been filed six years after the date of retirement and is hopelessly barred by time. There is no illegality or infirmity in the judgments and decrees passed by the Courts below, which are affirmed.

10. Appeal being devoid of merit is dismissed.

11. Pending application, if any, is disposed of.

08.08.2024

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(SUVIR SEHGAL)
JUDGE